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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,679	04/13/2004	Shigeru Nakahara	NAKAHARA2	2879
1444	7590	02/24/2005	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			BURNHAM, SARAH C	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/822,679

Applicant(s)

NAKAHARA, SHIGERU

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 13-14 is/are rejected.
- 7) ☒ Claim(s) 8 and 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date July 13, 2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed July 13, 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. JP 63-118854 has no statement of relevance. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites a connecting means disposed within "both said upper and seat back portions" in line 3. It is unclear to which portions Applicant is referring. Did Applicant intend to state that the connecting means is disposed within both said upper and lower seat back portions. Clarification is required.

It appears as if the word "portions" in line 17 of claim 14 should be replaced with the word - - portion - -. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Vu Khac et al. (5,544,942). Vu Khac et al. disclose a seat back (Figure 1) of an automotive seat comprising: a lower seat back portion (1) including a foam padding (12) therein; and an upper seat back portion (2)(3)(2) connected with an upper area (unlabeled) of said lower seat back portion (1), said upper seat back portion (2)(3)(2) including a foam padding (unlabeled) in the form of a “single block of polyurethane foam” (column 3, line 65) having a hardness equal to or greater than that of the other foam parts.

With respect to claim 2, the automotive seat is an automotive bucket seat (see Figure 9) constructed such that said upper (2)(3)(2) and lower (1) seat back portions are formed protuberant in the respective two lateral regions thereof. See Figure 9. The upper back portion (2)(3)(2) has side bolster portions (2) that protrude outwardly. The lower back portion (1) has upper and lower edges that fan outwardly and constitute protuberances.

With respect to claims 3 and 7, said lower seat back portion (1) is formed to have a main back support region (unlabeled) defined centrally thereof and a pair of side bolster support regions (unlabeled) defined on opposite sides of said main back support region (unlabeled) and in the form of upper and lower edges which fan outwardly as

described above. The upper seat back portion (2)(3)(2) is formed to have a headrest region (3) defined in the upper area thereof and a shoulder support region (2) defined in the lower area thereof.

With respect to claim 4, said pair of side bolster support regions each have a lateral surface (unlabeled) defined one side of lateral groove (6), wherein said upper seat back portion (2)(3)(2) the form of an inverted U shape (see Figure 9), such that a pair of said shoulder support regions (2)(2) are defined continuously from said headrest region (3) so as to extend downwardly therefrom, and where in each of said pair of shoulder support regions (2) is fixedly and integrally attached to said outer lateral surface of each of said pair of side bolster support regions (unlabeled) as is best depicted in Figure 3.

With respect to claim 5, a vent means, consisting of holes (14)(15)(16) formed in base (9) and the permeability characteristic (column 4, line 4) of the lower seat back (1) allow air to flow at said lower and upper seat back portions.

With respect to claims 6 and 7, a first vent hole means (14)(15)(16) is defined in said lower seat back portion (1) and a second vent hole means (7), as best seen in Figure 8, defined between said upper (2)(3)(2) and lower (1) seat back portions.

With respect to claim 9, said vent means includes a recessed portion (7) defined in said forward surface of said lower seat back portion (1).

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 103(a), as best understood with the above cited indefiniteness, as being unpatentable over Vu Khac et al. (5,544,942) in view of Vishey (5,758,924). As disclosed above, Vu Khac et al. disclose all claimed elements with the exception of a connecting means disposed within both said upper and lower seat back portions.

Vishey discloses a vehicle bucket seat (10) comprising a lower seat back member (16) and an upper seat back member (14). Lower seat back cushion (16) carries frame members (36)(38) and upper seat back member (14) carries frame members (40)(42). A securing bolt (52) is used to connect the two frame members (36)(36) and (40)(42) in order to attach lower seat back member (16) and upper seat back member (14).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the adhesive (17) used to connect the lower and upper seat back portions with a securing means disclosed by Vishey. Such a modification would allow the two seat back portions to be removed from one another without having to rip them apart.

***Allowable Subject Matter***

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8. Claims 8 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Rost (5,458,396); McEvoy et al. (6,688,686); Rivard et al. (5,863,095) ; Dudley (3,713,696) ; Karschin et al. (6,554,365) ; Cuevas (5,902,010) ; Schroten et al. (6,062,643) ; Farquhar et al. (6,837,541) ; Waelde (5,437,498) ; Colasanti (5,568,961) ; Burch (5,609,395) and Walker et al. (6,817,673).


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
February 9, 2005

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
Technology Center 3600